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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,586	06/27/2003	Mark Doran	20002/16812	8423

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HANLEY, FLIGHT & ZIMMERMAN, LLC
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CHICAGO, IL 60606

EXAMINER

WU, QING YUAN

ART UNIT	PAPER NUMBER
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2194

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/608,586

Applicant(s)

DORAN ET AL.

Examiner

Qing-Yuan Wu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 8/18/06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-23 are pending in the application.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show components "332" and "334" as described in the specification page 8, paragraphs 32-33. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 14-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

5. As to claim 14, the current focus of the Patent Office in regard to statutory inventions under 35 U.S.C. § 101 for method claims and claims that recite a judicial exception (software) is that the claimed invention recite a practical application. Practical application can be provided by a physical transformation or a useful, concrete and tangible result. No physical transformation is recited and additionally, the result of the claim is a processor "being programmed" to receive, identify and rejecting a driver request which is not a tangible result because the claim limits to abstract concepts and, thus, fails to achieve the required status of having real world value (no result is produce, since the processor was programmed to perform a function and not actually performing the function). Claims 15-23 are rejected for similar reason. See MPEP 2107.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blumenau et al. (hereafter Blumenau) (U.S. Patent 6,993,581), in view of Applicant Admitted Prior Art (hereafter AAPA) (U.S. Publication 2004/0268368).

8. As to claim 1, Blumenau teaches the invention substantially as claimed including receiving a driver request in a processor system; identifying the driver request as a request associated with a violating condition; and rejecting the driver request [col. 7, lines 43-49; col. 8, lines 1-10; col. 10, lines 17-31].

9. Blumenau does not specifically teach an operation phase of firmware, and protocol interface. However, AAPA teaches driver execution environment and protocol interfaces [Specification, pg. 1, paragraph 3].

10. It would have been obvious to one of an ordinary skill in the art at the time the invention was made, to have modified the teaching of AAPA with the teaching of Blumenau because Blumenau's teaching satisfied the concern of AAPA by preventing unauthorized access by insuring only authorized access are permitted.

11. As to claims 2-3 and 6, these claims are rejected for the same reason as claim 1 above.

12. As to claim 4, this claim is rejected for the same reason as claim 1 above. In addition, Blumenau as modified does not specifically teach a central processing unit architectural protocol.

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However, Blumenau as modified teaches architectural protocols [Specification, pg. 1, paragraph 3, lines 1-2]. It would have been obvious to one of an ordinary skill in the art at the time the invention was made, to have recognized the different architectural protocols (and services provided by the different architectural protocols as disclosed by applicant [Specification, pg. 2, paragraph 29, lines 8-10]).

13. As to claim 5, Blumenau as modified does not specifically teach the claim as recited. However, Blumenau as modified disclosed a protocol interface that was installed [Specification, pg. 1, paragraph 3]. It would have been obvious to one of an ordinary skill in the art at the time the invention was made, to have recognized that installed protocol interface are stored within storage media in a processor system.

14. As to claims 7-12, these are computer-readable medium claims that correspond to method claims 1-6. Therefore, they are rejected for the same reason as method claims 1-6 above.

15. As to claim 13, Blumenau as modified teaches the invention substantially as claimed including wherein the machine readable medium comprises one of a programmable gate array, application specific integrated circuit, erasable programmable read only memory, read only memory, random access memory, magnetic media, and optical media [col. 15, lines 61-65].

16. As to claims 14-23, Blumenau as modified teaches substantially the method to protect a protocol interface, therefore Blumenau as modified teaches substantially the apparatus and

processor system for implementing the method.

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 7,127,579 to Zimmer et al.

U.S. Publication No. 2004/0064457 to Zimmer et al.

U.S. Publication No. 2004/0267708 to Rothman et al.

U.S. Publication No. 2005/0015430 to Rothman et al.

U.S. Publication No. 2004/0255286 to Rothman et al.

U.S. Publication No. 2004/0230963 to Rothman et al.

U.S. Patent No. 6,907,522 to Morais et al.

U.S. Patent No. 7,103,529 to Zimmer

U.S. Patent No. 6,993,581 to Blumenau et al.

U.S. Patent No. 6,993,589 to Blumenau et al.

U.S. Patent No. 6,449,652 to Blumenau et al.

Extensible Firmware Interface Specification, Version 1.02

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Qing-Yuan Wu whose telephone number is (571) 272-3776. The examiner can normally be reached on 8:30am-6:00pm Monday-Thursday and alternate Friday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Thomson can be reached on (571) 272-3718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Qing-Yuan Wu

Examiner

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WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER